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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/017,783

12/13/2001

Abdo Esmail Abdo

IBM / 156

6115

7590 06/10/2009
Thomas W. Humphrey
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EXAMINER

ALAM, SHAHID AL

ART UNIT

PAPER NUMBER

2162

MAIL DATE

DELIVERY MODE

06/10/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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10017783	12/13/01	ABDO ET AL.	IBM / 156

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EXAMINER

Shahid Al. Alam

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Commissioner for Patents

This is in response to Appellant's response to Examiner's Answer filed on 2/25/2009. The Appellant's response is untimely. Examiner's Answer mailed on 8/05/2008 set a two (2) months time period to file a reply brief with no extension of time available under 37 CFR 1.136(a).

This examiner's answer contained new ground of rejection and appellant must within TWO MONTHS from the date of the answer to exercise one of the following two options to avoid sua sponte dismissal of the appeal as to the claims subject to the new ground of rejection:

- (1) Reopen prosecution. Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection.
- (2) Maintain appeal. Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41.

In this case, the Request to Reopen Prosecution must have been filed by October 5, 2008. Since the Reply Brief and request for reopening prosecution was filed on February 25, 2009 (more than 2 months from the mailing date of Examiner Answer). Thus, the Reply Brief and request for reopening prosecution cannot be accepted and entered at this time.

Now this application is ready for the Board of Patent Appeals and Interferences.

/Shahid Al Alam/
Primary Examiner, Art Unit 2162